IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10282 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KHODUBHAI HARSURBHAI GIDA

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR SK PATEL, AGP for Respondent Nos.1 to 3

MS PJ DAVAWALA for Respondent No. 4

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 20/10/2000

ORAL JUDGEMENT

By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner has challenged the order of detention dated 29-7-2000

passed by the District Magistrate, Amreli, in exercise of powers under Section 3(2)) of the PBMA Act, 1980 with a view to prevent the petitioner from black marketing essential commodities like kerosene and acting in any manner prejudicial to the maintenance of supplies of essential commodities like kerosene essential to the community.

2. Challenging the order of detention, it is contended by Mr.H.R.Prajapati, learned advocate for the petitioner that the detaining authority has not supplied certain basic documents which are relied upon by the detaining authority in passing the order of detention. He has also contended vide ground (j) of the petition that number of documents supplied with the order of detention are illegible and, therefore, the petitioner could not make an effective representation against the order of detention and hence, the order of detention may be quashed on this ground alone. He has placed reliance on the decision of this Court in the case of Pokhrajbhai Sohanbhai Chandel Vs. District Magistrate, Surat & Ors., reported in 1991(2) G.L.R. 753.

3. I have verified the copies of the documents which were supplied to the petitioner along with the order of detention. It is true that some of the copies are not legible and learned AGP has fairly admitted the same. In view of the aforesaid decision of this High Court, I am of the opinion that the detaining authority has failed to supply legible copy of the relevant documents to the detenu for making an effective representation which has infringed the detenu's right under Article 22(5) of the Constitution of India. Under the circumstances, continued detention of the detenu is bad and the same cannot be sustained.

4. In view of the above, the petition is allowed. The order of detention dated 29-7-2000 passed against the petitioner-detenu is hereby quashed and set aside. The detenu-Khodubhai Harsurbhai Gida is ordered to be set at liberty forthwith, if not required to be detained in any other case. Rule is made absolute accordingly with no order as to costs.

(R.P.DHOLAKIA,J.)

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